

DRAFT CHARGING LETTER

Ms. Lisa Peschcke-Koedt  
Vice President, Global Tax and Trade  
Agilent Technologies  
395 Page Mill Road  
PO Box 10395  
Palo Alto, CA 94303

Re: Investigation of Agilent Technologies Incorporated  
Concerning the Unauthorized Export of Promas Units

Dear Ms. Peschcke-Koedt:

The Department of State ("Department") charges that Agilent Technologies Incorporated ("Respondent"), as successor to SAFCO Technologies Incorporated (STI), violated the Arms Export Control Act ("Act") and the International Traffic in Arms Regulations ("Regulations") in connection with unauthorized exports of the Promas monitoring and intercept system to countries including Israel and Singapore.<sup>1</sup>

RELEVANT FACTS:

*Jurisdictional and License Requirements*

- 1) Respondent is a corporation organized under the laws of the United States and the State of Delaware.
- 2) Respondent is engaged in the business of manufacturing and exporting defense articles and defense services and is so registered with the Department of State, Directorate of Defense Trade Controls in accordance with Section 38 of the Act and § 122.1 of the Regulations.
- 3) Respondent is a U.S. person within the meaning of § 120.15 of the Regulations and, as such, is subject to the jurisdiction of the United States, in particular with regard to the Act and the Regulations.
- 4) In July of 2000, Respondent acquired SAFCO Technologies Incorporated from Salient 3 Communications Incorporated and subsequently merged the business into its corporate structure and operations.

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<sup>1</sup> The violations occurred prior to Agilent's acquisition of SAFCO Technologies Incorporated.

- 5) Salient 3 Communications Incorporated, in September 1996, had acquired what became SAFCO Technologies Incorporated from the company SAFCO Corporation.
- 6) Motorola Israel and Folec Communications Company are foreign persons within the meaning of 22 C.F.R. § 120.16.
- 7) The WJ 8607A and the WJ 8607C, which are both components of the STI manufactured Promas unit, are controlled under Category XI (b) of the United States Munitions List and require approval of the Department of State, Directorate of Defense Trade Controls for export in accordance with § 123 of the Regulations.

#### *Background*

- 8) Respondent acquired SAFCO Technologies Incorporated in July of 2000 from Salient 3 Communications Incorporated.
- 9) During 1996 and 1997, SAFCO Technologies Incorporated, manufactured and sold (for domestic use and export) intercept and monitoring devices utilized by telecommunications companies. The company produced an intercept and monitoring system known as Promas (propagation measurement and analysis system). Prior to September 1996, these devices also were manufactured and sold by SAFCO Corporation.
- 10) The Promas unit incorporated a receiver/scanner manufactured by Watkins-Johnson. The receiver/scanner (model numbers WJ 8607A and WJ 8607C) is a defense article controlled for export by the Department of State.
- 11) Between the dates of October 1, 1996 and April 10, 1997, SAFCO Technologies Incorporated exported three Promas units (one to Israel and two to Singapore) without the required authorization of the Department. Prior to September 1996, Promas units also were exported without the required authorization by SAFCO Corporation.
- 12) By letters filed by SAFCO Technologies Incorporated/Salient 3 Communications Incorporated on October 28, 1998 and by SAFCO Corporation on December 22, 1998, and in subsequent supplemental or related submissions, each voluntary disclosed to

the Directorate of Defense Trade Controls that its personnel made the above referenced exports without the required authorizations.

THE CHARGES:

CHARGE 1

On or about October 1, 1996, the Respondent violated Title 22, United States Code of Federal Regulations, § 127.1 (a) when it exported a defense article (the WJ 8607C scanner/receiver) from the United States to Motorola Israel (Tel Aviv, Israel) without first obtaining an export license or other written approval from the Directorate of Defense Trade Controls of the United States Department of State.

CHARGE 2 - 3

On or about April 10, 1997, the Respondent violated Title 22, United States Code of Federal Regulations, § 127.1 (a) when it exported two defense articles (the WJ 8607C scanner/receiver) from the United States to Folec Communications Co. (Singapore) without first obtaining an export license(s) or other written approval(s) from the Directorate of Defense Trade Controls of the United States Department of State.

ADMINISTRATIVE PROCEEDINGS:

Pursuant to 22 C.F.R. § 128 administrative proceedings are instituted against Agilent Technologies, Inc., in its capacity as successor to SAFCO Technologies Incorporated, for the purpose of obtaining an Order imposing civil administrative sanctions that may include the imposition of debarment or civil penalties. The Assistant Secretary for Political Military Affairs shall determine if debarment is appropriate and, if so, the period of debarment, which shall generally be for a period of three years in accordance with § 127.7 of the Regulations. Civil penalties, not to exceed \$500,000 per violation, may be imposed in accordance with § 127.10 of the Regulations.

A Respondent has certain rights in such proceedings as described in § 128 of the Regulations, a copy of which I am enclosing. Furthermore, pursuant to § 128.11 of the Regulations cases may be settled through consent agreements, including prior to service of a charging letter. Please be advised that the U.S. Government is free to pursue civil, administrative, and/or criminal enforcement for violations of the Arms Export Control Act and the International Traffic in Arms Regulations. The Department of State's decision to

pursue one type of enforcement action does not preclude it or any other department or agency of the United States from pursuing another type of enforcement action.

Sincerely,

David Trimble  
Director  
Office of Defense Trade Controls Compliance